



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MICHAEL J. SULLIVAN  
DIRECTOR

November 30, 1994  
AO-94-38

John J. Buckley  
71 Marshall Street  
Watertown, MA 02172

Re: Solicitation at Public Golf Course

Dear Mr. Buckley:

This letter is in response to your October 13, 1994 letter requesting an advisory opinion regarding fundraising at a golf course which is publicly owned but privately operated.

Specifically, it is your understanding that there are various municipalities which own a golf course and the buildings used in connection with the course. However, the course is operated by a private company employing private and not public employees. You wish to know if a political committee may hold a fundraising event at such a golf course and you note that the political committee would pay for the regular greens fees.<sup>1</sup> You have asked this question generally and not in relation to a particular golf course or municipality. For the reasons which follow, such fundraising would not violate the campaign finance law.

M.G.L. c. 55, s. 14 provides, in part "[n]o person shall in any building or part thereof<sup>2</sup> occupied for . . . municipal

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<sup>1</sup> The payment of greens fees for other political committees has been addressed. See AO-94-22 concluding that greens fees may only be paid for by a committee if the expenditure is made primarily for the purpose of enhancing the political future of the candidate or committee. This opinion also discussed the statutory limitations on transfers between committees.

<sup>2</sup> I assume that you are asking if a fundraising event may take place in a "building or part thereof" and not on the open spaces of a golf course. See AO-92-28 concluding that public park land containing no buildings is not subject to the prohibition set forth in section 14. I also assume that the use of the facilities is equally accessible to any candidate. See AO-88-26.

purposes demand, solicit or receive any payment or gift of money or other thing of value for the purposes set forth in section thirteen."<sup>3</sup>

This office has previously advised that buildings located on a golf course owned by a municipality and staffed and operated by persons employed by the municipality (hereinafter "public employees") are "occupied for a municipal purpose" and may not be used for fundraising purposes by any political committee. See AO-94-17. However, where the golf course and adjacent buildings are merely owned by a municipality which subsequently leases the grounds and buildings to a private company which hires only private employees, section 14 does not appear to apply. This is because neither the buildings nor any part thereof is "occupied for a municipal purpose."<sup>4</sup>

Section 14 is one of a series of restrictions in chapter 55 which "demonstrate a general legislative intent to keep political fund raising and disbursing out of the hands of nonelective public employees and out of city and town halls." Anderson v. City of Boston, 376 Mass. 178, at 186-187. More specifically, as noted in AO-94-17:

Section 14 was designed to protect all persons working in, or visiting, buildings or parts thereof occupied for state, county, or municipal purposes from being subjected to the pressures of political solicitation.

This office recognizes that many types of governmental services may be provided in publicly owned buildings or privately owned buildings leased or otherwise utilized by the government. Similarly, public services may be provided by persons employed directly by the government or through a contract with a private vendor. While these factors are relevant, neither are controlling. The fundamental question as to whether a building is occupied for governmental purposes must be determined by a review of all the circumstances relative to the building's use.

Where a municipality decides to provide a service which is not primarily governmental such as the operation of a golf course through a private vendor, it is this office's opinion

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<sup>3</sup> Section 13 prohibits political solicitation by persons employed by the commonwealth and its subdivisions "for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever. . ."

<sup>4</sup> See AO-89-07 (convention facilities specifically and primarily designed to be rented to private parties were not occupied for state, county or municipal purpose), and AO-94-04 (memorial hall owned by a municipality was not occupied for state, county or municipal purpose since no government offices were in the building and the building was used only for rental purposes).

Mr. John J. Buckley  
November 30, 1994  
Page 3


that section 14 is not implicated absent unusual circumstances. To quote from the language of Anderson we do not believe that permitting fundraising under the circumstances described will undermine the "general legislative intent to keep political fund raising and disbursing out of the hands of nonelective public employees and out of city and town halls." In short, we do not believe that such a club is "occupied for state, county or municipal purposes."

Since you have not presented detailed facts regarding the specific arrangement between the municipality and the private company, such as the extent of the municipality's involvement in the golf facilities operations, it is not possible to answer your question definitively. However, absent specific circumstances which would suggest a contrary result, it is the opinion of this office that a fundraising event may be held in a publicly owned "building or part thereof" that is part of a golf course or club which is privately staffed and operated.

This opinion has been rendered solely on the basis of representations made in your letter and conversations with staff from this office, and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Sincerely,

  
Michael J. Sullivan  
Director

MJS/cp